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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,002	10/16/2003	Tuan Ta	ION1120-1	7453
44654 7590 05/02/2007 SPRINKLE IP LAW GROUP 1301 W. 25TH STREET SUITE 408 AUSTIN, TX 78705			EXAMINER COULTER, KENNETH R	
			ART UNIT 2141	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,002	<b>Applicant(s)</b> TA ET AL.	
	<b>Examiner</b> Kenneth R. Coulter	<b>Art Unit</b> 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/15/04; 12/24/03</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because  
the cited Application should be specified (p. 14, paragraph 29).

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 38 recites the limitation "the computer instructions" in lines 1 - 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 56 recites the limitation "the instructions" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2141

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Morris et al. (U.S. Pat. No. 6,336,133) (Regulating Users of Online Forums).

4.1 Regarding claim 1, Morris discloses a device for allocating bandwidth on a per user basis comprising:

- a processor (Fig. 1; col. 16, lines 12 – 18);

- a first network interface coupled to the processor (Fig. 1; col. 16, lines 12 – 18);

- a second network interface coupled to the processor (Fig. 1; col. 16, lines 12 – 18);

- a storage medium accessible by the processor (Fig. 1; col. 16, lines 12 – 22);

- a set of computer instructions stored on the storage medium, executable by the processor (col. 16, lines 12 – 22) to:

- retrieve a set of user profiles, wherein each user profile corresponds to a specific user in a set of users (Figs. 3, 5; col. 11, line 65 – col. 12, line 13; col. 6, lines 1 – 4);

- establish at least one bandwidth limit for each user in the set of users based on the corresponding user profile for that user (Figs. 3, 5; col. 11, line 65 – col. 12, line 13; col. 6, lines 1 – 4);

for each user in the set of users, regulate bandwidth usage associated with that user based on the at least one bandwidth limit established for that user (Figs. 3, 5; col. 11, line 65 – col. 12, line 19; col. 6, lines 1 – 4); and

update the at least one bandwidth limit for at least one user from the set of users (col. 11, line 66 – col. 12, line 13 “In one embodiment, ***the particular parameter or privilege that is modified according to the rise or fall of the user’s evil index is the user’s permitted messaging rates.***” “Rate limiting can also be combined with ‘eviling’ by ***automatically adjusting a users rate limit parameters based on their ‘evil index’***”).

4.2 Per claim 2, Morris teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit based on a new user profile (col. 11, line 66 – col. 12, line 13 “In one embodiment, ***the particular parameter or privilege that is modified according to the rise or fall of the user’s evil index is the user’s permitted messaging rates.***” “Rate limiting can also be combined with ‘eviling’ by ***automatically adjusting a users rate limit parameters based on their ‘evil index’***”).

4.3 Regarding claim 3, Morris discloses the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit based on a **new user** connecting to the device (Figs. 3, 5; col. 11, line 65 – col. 12, line 19 “Rate limiting can also limit aggregate input to a server to a level at which the

system is reasonably loaded under normal conditions.”).

4.4 Per claim 4, Morris teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit based on a time of day (Fig. 3; col. 6, lines 15 – 38 “user’s time-of-entry”).

4.5 Regarding claim 5, Morris discloses the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit based on utilization averaging for the corresponding user (Figs. 3, 5; col. 11, line 65 – col. 12, line 13 “weighted to tolerate brief bursts of messaging activity”).

4.6 Per claim 6, Morris teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit by modifying a traffic control rule containing the at least one bandwidth limit (Figs. 3, 5; col. 11, line 65 – col. 12, line 13; col. 6, lines 1 – 4).

4.7 Regarding claim 7, Morris discloses the device of claim 1, wherein the computer instructions are further executable to meter bandwidth usage on a per user basis (Figs. 3, 5; col. 11, line 65 – col. 12, line 19 “per user connection basis”; col. 6, lines 1 – 4).

4.8 Per claim 8, Morris teaches the device of claim 1, wherein the computer instructions are further executable to establish a traffic control rule for each user

Art Unit: 2141

containing the at least one bandwidth limit for that user (Figs. 3, 5; col. 11, line 65 – col. 12, line 13).

4.9 Regarding claim 9, Morris discloses the device of claim 8, wherein the computer instructions are further executable to dynamically update the at least one bandwidth limit for the at least one user by updating the traffic control rule for the at least one user (Figs. 3, 5; col. 11, line 65 – col. 12, line 13).

4.10 Per claim 10, Morris teaches the device of claim 9, wherein the computer instructions are further executable to access each traffic control rule from an IP table based on an indicator associated with each traffic control rule (col. 14, line 58 – col. 15, line 29).

4.11 Regarding claim 11, Morris discloses the device of claim 10, wherein the indicator comprises a MAC address (col. 14, line 58 – col. 15, line 29).

4.12 Per claim 12, Morris teaches the device of claim 10, wherein the indicator comprises an IP address (Fig. 1; col. 14, line 58 – col. 15, line 29; col. 1, lines 32 – 45).

4.13 Regarding claim 13, Morris discloses the device of claim 1, wherein the computer instructions are further executable to: receive a network communication from a first user from the set of users over the first network interface destined for a network connected to

Art Unit: 2141

the second network interface; access a traffic control rule for the first user that includes an upload bandwidth limit for the first user; and determine if the network communication causes the upload bandwidth limit to be exceeded (Figs. 3, 5; col. 11, line 65 – col. 12, line 42).

4.14 Per claim 14, Morris does not explicitly teach the device of claim 13, wherein the computer instructions are further executable to receive the network communication from the user over a wireless network.

However, online forum implementation inherently includes wireless, portable devices.

4.15 Regarding claim 15, Morris discloses the device of claim 1, wherein the computer instructions are further executable to: receive a network communication over a network connected to the second network interface destined for a first user from the set of users; access a traffic control rule for the first user that includes a download bandwidth limit for the first user; and determine if the network communication causes the upload bandwidth limit to be exceeded (Figs. 3, 5; col. 11, line 65 – col. 13, line 12).

4.16 Per claim 16, Morris does not explicitly teach the device of claim 15, wherein the computer instructions are further executable to receive the network communication from the user over a wireless network.

However, online forum implementation inherently includes wireless, portable devices.



Art Unit: 2141

4.17 Regarding claim 17, Morris discloses the device of claim 1, wherein the computer instructions are further executable to monitor sessions on per user basis (col. 12, lines 19 – 27 "session basis"; col. 14, lines 58 – 65).

4.18 Per claim 18, Morris teaches the device of claim 1, wherein the computer instructions are further executable to: prioritize bandwidth allocations for network applications for at least one user based the corresponding user profile for that user (Figs. 3, 5; col. 11, line 65 – col. 13, line 12).

4.19 Regarding claims 19 – 60, the rejection of claims 1 – 18 under 35 USC 102(e) (paragraphs 4.1 – 4.18 above) applies fully.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on M - F, 7:30 am - 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KENNETH R. COULTER  
PRIMARY EXAMINER



krc